



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,061	01/12/2001	Joshua P. Walsky	M-9724 US	2600
33438	7590	04/27/2006	EXAMINER	
HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,061

Applicant(s)

WALSKY, JOSHUA P.

Examiner

Yogesh C. Garg

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 35-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 35-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/24/2006</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3625

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/13/2006 has been entered.

Response to Amendment

2. The applicant's amendment received on 2/13/2006 along with RCE is acknowledged and entered. Claims 1, 8, 15- 22, 39, and 49 have been amended. Claims 29-34 were previously canceled. Currently claims 1-28 and 35-51 are pending for examination.

Response to Arguments

3. Applicant's arguments (see Remarks, pages 11-16) with respect to rejection of claims 1-28 and 35-51 under 35 USC 102 and 35 USC 103 (a) as anticipated by Bezos or rendered obvious in view of Bezos have been considered but are moot in view of the new ground(s) of rejection.

4. **NOTE :** Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific

Art Unit: 3625

limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.1. Claims 1, 4-5, 8, 11-12, 15, 18-19, 22, 25-26, 35-38, 39, 43-44, 46, and 47-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith (US Patent 6,901,430 B1) .

Regarding currently amended claim1, Smith discloses a method, employing a browser in data communication over a network with a server, for determining a price of a product, said server having a plurality of addresses in an address space associated therewith (see at least Figs 1-3, 8 and , col. 3, line 62-col.4, line 22, col.7, line 8-col.9, line 62, col.13, line 61-cil.14, line 51), said method comprising:

Art Unit: 3625

displaying information concerning said product in a browser window, said information including on a first offered price data of said product, agreeing to said first offered price data by transmitting product-related information to the server for storage in said a sub-portion of said plurality of server addresses, wherein said transmitted product-related information includes said first offered price data of the product and wherein the sub-portion of said plurality of server addresses are associated with an identification code corresponding to a user of the browser, wherein the agreed to offered price data defines agreed price data(see at least Figs 1-3, 8 and , col. 3, line 62-col.4, line 22, col.7, line 8-col.9, line 62, col.13, line 61-cil.14, line 51. Smith discloses an online method and system providing/displaying [see fig.8, "855-Display results"] product information including price data and comparison data to the consumer before he places an order or purchases the item, such as an automotive vehicle. Smith's method enables the consumer to configure the required automobile as per displayed information including price offer and comparison data. Consumer uses a browser software program running on a client computer and communicates with a server [see fig.3 web site portal 318 corresponds to a server] which has got a plurality of address spaces, such as "prospective buyer data 336", configuration pricing data 324', etc. and each of these address spaces further include a plurality of addresses stored in the form of digitized data . The consumer's preferred configuration choice including the price offer, after being input by the user on his client computer is transmitted by the browser application to the server, that is portal web-site 318 and is stored in the address space, "prospective buyer data 336" for future use in a subportion of plurality of addresses with

Art Unit: 3625

an identification code, such as customer ID and configuration identifier (see at least col.12, lines 56-col.13, line 27, col.25, lines 8-12 and col.24, lines 54-61); and

changing said agreed price data of said product to said a second offered price data of said product in response to an event (see at least col.22, lines 9-22 and Fig.22 . Smith discloses that in response to an event such as change in specification of the automobile vehicle the stored configuration data of the vehicle in the address space, “prospective buyer data 336” is also updated according to the changes which would imply a changed agree price data as per the new specification /configuration).

Note: The terms “address space” , “addresses” and “subportion of said plurality of server addresses” recited in claim 1 are interpreted in the generic sense as understood in the filed of computers and computer programming because the applicant’s disclosure does not provide any specific definition of explanation. The term “address space” associated with a server corresponds to a range of memory location that the processor or a process in a server can access and in Smith the address spaces correspond to various memory location ranges [see fig.3] , that is “prospective buyer data 336”, configuration pricing data 324’, etc. The term, “address” corresponds to a value/number specifying a location in that range of memory so that the processor or process in a server can output it on an address bus the connection between the CPU and memory. In this case the various data elements stored in the various memory locations, such as “prospective buyer data 336”, configuration pricing data 324’, etc. correspond to plurality of addresses and a group of information stored in digitized data form and identified by a

Art Unit: 3625

configuration code or customer identifier corresponds to storing said information in a subportion of said plurality of server addresses.

Regarding claims 4-5, and 35 Smith teaches that the said information corresponds to characteristics of an automobile and said changing said agreed price comprises varying said characteristics and said event corresponds to a change in a specification of said product(already covered in the analysis presented for claim 1 while referring to Figs 1-3, 8, 22 and , col. 3, line 62-col.4, line 22, col.7, line 8-col.9, line 62, col.13, line 61-col.14, line 51 and col.22,lines 9-22).

Regarding claim 47, Smith discloses that agreement to said price is effected by storing said product-related information in said sub-portion of said addresses associated with said server (see at least col.22, lines 9-22 and Fig.22 . Smith discloses that in response to an event such as change in specification of the automobile vehicle the stored configuration data of the vehicle in the address space, " prospective buyer data 336" is also updated according to the changes which would imply a changed agree price data as per the new specification /configuration).

Regarding claims 8, 11-12, 15, 18-19, 22, 25-26, 36-38, 39, 43-44, 46, and 48-51 their limitations are closely parallel to the limitations of claims 1, 4-5, 35 and 47 and are therefore analyzed and rejected as being anticipated by Smith based on same rationale.

Claim Rejections - 35 USC § 103

6 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6.1. Claims 2-3, 6, 9-10, 13,16-17, 20,23-24, 27, 40-42, are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith further in view of Walker et al. (US Patent 6,507,822), hereinafter referred to Walker.

Regarding claims 2-3, Smith discloses a method employing a browser in data communication over a network with a server, for determining a price of a product, said server having a plurality of addresses in an address space associated therewith and changing an agreed price data of the product, such as an automobile, that the user wants to purchase to a new/second offered price data in an address space/memory in response to an event such as the user changing the configuration/specification of the automobile, as analyzed above for claim 1. Smith does not disclose that the said event is a predetermined event that includes expiration of a preset amount of time. However, Walker I the same field of endeavor, teaches changing agreed price data of a product to a second offered price data of said product in response to a predetermined event that includes expiration of a preset amount of time (see at least Figs.8,9 and col.7, line 35-

Art Unit: 3625

col.8, line 20. Walker discloses storing two prices effective for two different periods of time for a product identified by product # "1111". First price of \$10.00 is effective from Jan 1, 1999-Jan 31, 1999 and after the expiry of this first price on Jan 31, 1999 a second price of \$7.50 becomes effective from Feb 1, 1999. Note In this example Walker teaches change in the agreed price data due to a predetermined event, such as lapse of a predetermined time period). In view of Walker, it would be obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Smith to incorporate the feature of changing agreed price data of a product to a second offered price data of said product in response to a predetermined event that includes expiration of a preset amount of time because, as would be obvious to one of an ordinary skilled in the art, to expedite the sale of old models of automobiles as well-known and evidenced in Walker (see col.1, line 12-col.2, line 67) with regards to selling old products. Dealers and manufacturers of cars want to finish the earlier models inventories before the arrival of new models.

Further, a change in the price data corresponds to change in the addresses of said subportion of said plurality of addresses implying that due to a predetermined event, such as lapse of a preset amount of time would also include disassociating the earlier information, that is the earlier price from said subportion of said plurality of addresses.

Regarding claim 6, Smith in view of Walker discloses that the method as recited in claim 2 wherein said preset time is in a range of one to 28 or 31 days (see at least

Art Unit: 3625

Fig. 8. Note: The range or preset time is a non-functional descriptive material and therefore any weight to a non-functional descriptive material is unwarranted because the range whether it is 1-7 days or 1-30 days or 1 day does not change the function being performed. The change in the agreed price data would take place to a second offered price determined by the preset time and therefore irrespective of the fact what is the range that is whether 1-10 days or 1-30 days the function of changing the price would be performed to a second price based upon a preset time. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).).

Regarding claims 9-10, 13,16-17, 20,23-24, 27, 40-42,, their limitations are closely parallel to the limitations of claims 2-3 and 6 and are therefore analyzed and rejected as being unpatentable over Smith in view of Walker based on same rationale.

6.2.. Claims 7, 14, 21, 28 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of the reference Franklin.

Regarding claim 7, Smith, as applied to claim 1, teaches a method, employing a browser in data communication over a network with a server, for determining a price of a product. It ahs already been analyzed in claim 1 that Smith teaches that the said information about a product includes information on price . Smith does not explicitly disclose that said information includes taxes associated with a geographic region.

Art Unit: 3625

However, Franklin, in the field of same endeavor, that is of conducting purchasing and selling products on www teaches that product information includes taxes associated with a geographic region (see at least col.15, lines 12-24, " *The commerce server 130 performs two primary tasks....retrieves various data items in connection with a product....price, expiration date, tax, and shipping charges....*". Note: taxes and shipping charges are calculated as applicable for the geographic location, where the item is to be shipped. Franklin teaches collecting the information about the shipping address (see col.15, lines 47-51, "*.....shipping address data 142, all of which has been selectively stored....*"). In view of Franklin, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Smith to incorporate the feature of including taxes associated with a geographic location, where the goods are to be shipped because , as indicated in Franklin, by providing/calculating the shipping cost information inclusive of taxes before the user decides to purchase the item will enable the user to make an informed purchase decision, specially when this shipping cost may differ from one merchant to another.

Regarding claims 14, 21, 28 and 45, their limitations are closely parallel to the limitations of claim 7 and is therefore analyzed and rejected as being unpatentable over Smith in view of Franklin based on same rationale.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Patent 5,873,069 to Reuhl et al. discloses a computerized method and system changing agreed prices in a database due to events such as market price changes, changes in advertised prices or discounted prices, etc. (see at least Abstract and col.3, line 41-col.4, line 56).


(ii) US Patent 6,778,968 to Gulati discloses in the field of leasing automobile lock auctions to change and update the prices after a particular time window (see at least col.29, lines 46-65).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
4/17/2006